

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Gary A. Clawson et al. Art Unit : 1635
Serial No. : 10/552,914 Examiner : McGarry, Sean
Filed : October 13, 2005 Conf. No. : 6907
Title : RNA INTERFERENCE COMPOSITIONS AND METHODS

Mail Stop Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF WEI-HUA PAN UNDER 37 C.F.R. § 1.131

I, Wei-Hua Pan, hereby declare as follows:

1. I am an inventor of currently pending claims 160-174 of the above-referenced patent application.
2. In an Office Action dated January 6, 2009, claims 160-162 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nilsen *et al.* (U.S. Pat. No. 6,013,447) in view of Taira *et al.* (U.S. Pat. Pub. No. 2004/0002077).
3. The Taira *et al.* reference lists its filing date as November 27, 2002.
4. Prior to November 27, 2002, and thus necessarily before the filing date of the Taira *et al.* reference, Gary A. Clawson, Ping Xin, and I worked together in this country to complete the conception of the invention recited in claims 160-174 of the above-referenced patent application, as evidenced by a copy of pages from Ping Xin's laboratory notebook (attached as Exhibit A), and Gary A. Clawson, Ping Xin, and I worked diligently to constructively reduce said invention to practice. The dates on the attached notebook pages, all of which are prior to November 27, 2002, have been blacked out.

5. Pages 1 and 2 of Exhibit A depict a schematic for selection of siRNA molecules from an siRNA random library using random 21-mers, and page 3 of Exhibit A depicts a schematic for short hairpin RNA (shRNA) library selection, a schematic for construction of the shRNA library and a method for detection of shRNA using GFP. Pages 1 and 2 of Exhibit A are comparable to Figures 20 and 21 of Applicants' specification, and page 3 is comparable to Figures 25 and 26. A copy of published Figures 20, 21, 25 and 26 are attached as Exhibit B.

6. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

4-29-09

Date

Wei-Hua Pan

Wei-Hua Pan